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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,549	10/23/2003	Johann Holzleitner	1086849	6446

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EXAMINER

KRAUSE, JUSTIN MITCHELL

ART UNIT	PAPER NUMBER
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3682

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/690,549

Applicant(s)

HOLZLEITNER, JOHANN

Examiner

Justin Krause

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 15-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Species 1 in the reply filed on November 13, 2006 is acknowledged.

Claims 15-18 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 13, 2006.

This Restriction Requirement is hereby made FINAL.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the bearing claimed in claims 12 and 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings

for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: A "third gear" is not referenced in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-10, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear how applicant regards claim 5 as readable on the elected embodiment. Claim 5 recites, "[A]t least one driving disk connected positively to the intermediate shaft," which is recited explicitly in the non-elected embodiment of specification paragraph 0043. Under applicant's definition of a "positive connection" on

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page 10 as a rigid connection made by fastening **two elements** together, it is not clear how applicant regards claim 5 as readable on the elected embodiment which requires the driving disk to be positively connected to the hub. While the hub is disposed on the intermediate shaft, applicants definition of "positive connection" does not permit another element to be disposed between the two elements that are positively connected.

Regarding claim 6, it is unclear how the hub can be disposed between the driving disk and the intermediate shaft, if the driving disk is "positively connected" to the intermediate shaft.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-14, and 19-20, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Whitney (US Patent 1,883,432).

Whitney discloses a starter assembly comprising:

-A starter motor (8)

-An intermediate shaft (4)

-A first gear (29) to transmit rotational motion between the motor output shaft (9) and the intermediate shaft

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- A friction plate clutch (39) associated with the first gear

- A second gear (28) operatively connected to the intermediate shaft and a third gear (4) operatively connected to the crank shaft.

- A clutch (48,51) associated with the second gear.

Regarding claim 2, the second gear moves axially to couple and decouple with the third gear.

Regarding claim 4, the first and second gears are both disposed on the intermediate shaft at positions axially offset from each other.

Regarding claim 11, the first gear is a ring gear mounted rotatably on the intermediate shaft.

Regarding claim 12, a bearing (13) is disposed between the first gear and the intermediate shaft to facilitate rotation.

Regarding claim 19, a hub (26) is provided on the intermediate shaft and connects the friction plate clutch to the intermediate shaft.

Regarding claim 20, the hub is rigidly connected to the intermediate shaft.

Claims 1-3, 5-10, 11-14, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Froment (US Patent 4,883,185).

Froment discloses a starter assembly, disclosed as an electric starter (the specification references a drive motor in col 2, line 57) and a motor must inherently be present, an intermediate shaft (21), a first gear (32) operatively connected to the motor output shaft and the intermediate shaft, a friction plate clutch (6) associated with

the first gear, a second gear (1) operatively connected between the intermediate shaft and a third gear associated with the crank shaft, and a clutch associated with the second gear (2). A third gear is inherently present and operatively connected to the crankshaft to transmit power from the second gear to the crankshaft to start the engine.

Regarding claim 2, the limitations of claim 2 describe how the device operates and does not introduce additional structure to further limit the claimed invention. The device of Froment is capable of performing the claimed function.

Regarding claim 3, the friction plate clutch forms a non-positive connection between the first gear and the intermediate shaft.

Regarding claim 11, the first gear is a ring gear mounted rotatably on the intermediate shaft.

Regarding claim 12, a bearing (the sliding surface between 34 and the end of the shaft), is disposed between the first gear and the intermediate shaft.

Allowable Subject Matter

Claims 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The examiner also notes that if claim 6 were dependent from claim 1, claim 6 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Krause whose telephone number is 571-272-3012. The examiner can normally be reached on Monday - Friday, 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMK
1/31/07


Thomas R. Hannon
Primary Examiner